

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1664 be amended to read as follows:

- 1 Page 6, between lines 39 and 40, begin a new paragraph and insert:
- 2 "SECTION 4. IC 6-3.1-1-3, AS ADDED BY P.L.199-2005,
- 3 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JANUARY 1, 2007 (RETROACTIVE)]; Sec. 3. A taxpayer (as defined
- 5 in the following laws), pass through entity (as defined in the following
- 6 laws), or shareholder, partner, or member of a pass through entity may
- 7 not be granted more than one (1) tax credit under the following laws for
- 8 the same project:
- 9 (1) IC 6-3.1-10 (enterprise zone investment cost credit).
- 10 (2) IC 6-3.1-11 (industrial recovery tax credit).
- 11 (3) IC 6-3.1-11.5 (military base recovery tax credit).
- 12 (4) IC 6-3.1-11.6 (military base investment cost credit).
- 13 (5) IC 6-3.1-13.5 (capital investment tax credit).
- 14 (6) IC 6-3.1-19 (community revitalization enhancement district
- 15 tax credit).
- 16 (7) IC 6-3.1-24 (venture capital investment tax credit).
- 17 (8) IC 6-3.1-26 (Hoosier business investment tax credit).
- 18 **(9) IC 6-3.1-32 (Hoosier alternative fuel vehicle manufacturer**
- 19 **tax credit).**
- 20 If a taxpayer, pass through entity, or shareholder, partner, or member
- 21 of a pass through entity has been granted more than one (1) tax credit
- 22 for the same project, the taxpayer, pass through entity, or shareholder,
- 23 partner, or member of a pass through entity must elect to apply only
- 24 one (1) of the tax credits in the manner and form prescribed by the

1 department."

2 Page 11, between lines 10 and 11, begin a new paragraph and insert:

3 "SECTION 6. IC 6-3.1-32 IS ADDED TO THE INDIANA CODE  
4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
5 JANUARY 1, 2007 (RETROACTIVE)]:

6 **Chapter 32. Hoosier Alternative Fuel Vehicle Manufacturer Tax**  
7 **Credit**

8 **Sec. 1. As used in this chapter, "alternative fuel" means:**

- 9 (1) methanol, denatured ethanol, and other alcohols;
- 10 (2) mixtures containing eighty-five percent (85%) or more by
- 11 volume of methanol, denatured ethanol, and other alcohols
- 12 with gasoline or other fuel;
- 13 (3) natural gas;
- 14 (4) liquefied petroleum gas;
- 15 (5) hydrogen;
- 16 (6) coal-derived liquid fuels;
- 17 (7) non-alcohol fuels derived from biological material;
- 18 (8) P-Series;
- 19 (9) electricity; or
- 20 (10) electric battery and diesel.

21 **Sec. 2. As used in this chapter, "alternative fuel vehicle" means**  
22 **any vehicle designed to operate on at least one (1) alternative fuel.**

23 **Sec. 3. As used in this chapter, "the corporation" means the**  
24 **Indiana economic development corporation established by**  
25 **IC 5-28-3-1.**

26 **Sec. 4. As used in this chapter, "director" has the meaning set**  
27 **forth in IC 6-3.1-13-3.**

28 **Sec. 5. As used in this chapter, "highly compensated employee"**  
29 **has the meaning set forth in Section 414(q) of the Internal Revenue**  
30 **Code.**

31 **Sec. 6. As used in this chapter, "new employee" has the meaning**  
32 **set forth in IC 6-3.1-13-6.**

33 **Sec. 7. As used in this chapter, "qualified investment" means the**  
34 **amount of a taxpayer's expenditures in Indiana that are reasonable**  
35 **and necessary for the manufacture or assembly of alternative fuel**  
36 **vehicles, including:**

- 37 (1) the purchase of new telecommunications, production,
- 38 manufacturing, fabrication, assembly, finishing, distribution,
- 39 transportation, or logistical distribution equipment, jigs, dies,
- 40 or fixtures;
- 41 (2) the purchase of new computers and related equipment;
- 42 (3) costs associated with the modernization of existing
- 43 telecommunications, production, manufacturing, fabrication,
- 44 assembly, finishing, distribution, transportation, or logistical
- 45 distribution facilities;
- 46 (4) onsite infrastructure improvements;
- 47 (5) the construction of new telecommunications, production,

1 manufacturing, fabrication, assembly, finishing, distribution,  
2 transportation, or logistical distribution facilities;

3 (6) costs associated with retooling existing machinery and  
4 equipment;

5 (7) costs associated with the construction of special purpose  
6 buildings, pits, and foundations; and

7 (8) costs associated with the purchase of machinery,  
8 equipment, or special purpose buildings used to manufacture  
9 or assemble alternative fuel vehicles;

10 that are certified by the corporation under this chapter as being  
11 eligible for the credit under this chapter.

12 Sec. 8. As used in this chapter, "state tax liability" means a  
13 taxpayer's total tax liability that is incurred under:

14 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

15 (2) IC 6-5.5 (the financial institutions tax); and

16 (3) IC 27-1-18-2 (the insurance premiums tax);

17 as computed after the application of the credits that under  
18 IC 6-3.1-1-2 are to be applied before the credit provided by this  
19 chapter.

20 Sec. 9. As used in this chapter, "taxpayer" means an individual,  
21 a corporation, a partnership, or other entity that has state tax  
22 liability.

23 Sec. 10. The corporation may make credit awards under this  
24 chapter to:

25 (1) foster job creation and higher wages;

26 (2) reduce dependency upon energy sources imported into the  
27 United States; and

28 (3) reduce air pollution as the result of the manufacture or  
29 assembly of alternative fuel vehicles in Indiana.

30 Sec. 11. A taxpayer that:

31 (1) is awarded a tax credit under this chapter by the  
32 corporation; and

33 (2) complies with the conditions set forth in this chapter and  
34 the agreement entered into by the corporation and the  
35 taxpayer under this chapter;

36 is entitled to a credit against the taxpayer's state tax liability in a  
37 taxable year.

38 Sec. 12. The total amount of a tax credit claimed for a taxable  
39 year under this chapter is a percentage determined by the  
40 corporation, not to exceed twenty-five percent (25%) of the  
41 amount of a qualified investment made by the taxpayer in Indiana  
42 during that taxable year. The taxpayer may carry forward any  
43 unused credit.

44 Sec. 13. (a) A taxpayer may carry forward an unused credit for  
45 the number of years determined by the corporation, not to exceed  
46 nine (9) consecutive taxable years, beginning with the taxable year  
47 after the taxable year in which the taxpayer makes the qualified

1 investment.

2 (b) The amount that a taxpayer may carry forward to a  
3 particular taxable year under this section equals the unused part  
4 of a credit allowed under this chapter.

5 (c) A taxpayer may:

6 (1) claim a tax credit under this chapter for a qualified  
7 investment; and

8 (2) carry forward a remainder for one (1) or more different  
9 qualified investments;

10 in the same taxable year.

11 (d) The total amount of each tax credit claimed under this  
12 chapter may not exceed twenty-five percent (25%) of the qualified  
13 investment for which the tax credit is claimed.

14 Sec. 14. A person that proposes a project to manufacture or  
15 assemble alternative fuel vehicles that would create new jobs,  
16 increase wage levels, or involve substantial capital investment in  
17 Indiana may apply to the corporation before the taxpayer makes  
18 the qualified investment to enter into an agreement for a tax credit  
19 under this chapter. The corporation shall prescribe the form of the  
20 application.

21 Sec. 15. After receipt of an application, the corporation may  
22 enter into an agreement with the applicant for a credit under this  
23 chapter if the corporation determines that all the following  
24 conditions exist:

25 (1) The applicant's project will raise the total earnings of  
26 employees of the applicant in Indiana.

27 (2) The applicant's project is economically sound and will  
28 benefit the people of Indiana by increasing opportunities for  
29 employment and strengthening the economy of Indiana.

30 (3) The manufacture or assembly of alternative fuel vehicles  
31 by the applicant will reduce air pollution.

32 (4) The manufacture or assembly of alternative fuel vehicles  
33 by the applicant will reduce dependence by the United States  
34 on foreign energy sources.

35 (5) Receiving the tax credit is a major factor in the applicant's  
36 decision to go forward with the project.

37 (6) Awarding the tax credit will result in an overall positive  
38 fiscal impact to the state, as certified by the budget agency  
39 using the best available data.

40 (7) The credit is not prohibited by section 16 of this chapter.

41 (8) The average wage that will be paid by the taxpayer to its  
42 employees (excluding highly compensated employees) at the  
43 location after the credit is given will be at least equal to one  
44 hundred fifty percent (150%) of the hourly minimum wage  
45 under IC 22-2-2-4 or its equivalent.

46 Sec. 16. A person is not entitled to claim the credit provided by  
47 this chapter for any jobs that the person relocates from one (1) site

1 in Indiana to another site in Indiana. Determinations under this  
2 section shall be made by the corporation.

3 Sec. 17. The corporation shall certify the amount of the qualified  
4 investment that is eligible for a credit under this chapter. In  
5 determining the credit amount that should be awarded, the  
6 corporation shall grant a credit only for the amount of the  
7 qualified investment that is directly related to expanding:

- 8 (1) the workforce in Indiana; or
- 9 (2) the capital investment in Indiana.

10 Sec. 18. The corporation shall enter into an agreement with an  
11 applicant that is awarded a credit under this chapter. The  
12 agreement must include all the following:

- 13 (1) A detailed description of the project that is the subject of  
14 the agreement.
- 15 (2) The first taxable year for which the credit may be claimed.
- 16 (3) The amount of the taxpayer's state tax liability for each  
17 tax in the taxable year of the taxpayer that immediately  
18 preceded the first taxable year in which the credit may be  
19 claimed.
- 20 (4) The maximum tax credit amount that will be allowed for  
21 each taxable year.
- 22 (5) A requirement that the taxpayer shall maintain operations  
23 at the project location for at least ten (10) years during the  
24 term that the tax credit is available.
- 25 (6) A specific method for determining the number of new  
26 employees employed during a taxable year who are  
27 performing jobs not previously performed by an employee.
- 28 (7) A requirement that the taxpayer shall annually report to  
29 the corporation the number of new employees who are  
30 performing jobs not previously performed by an employee,  
31 the average wage of the new employees, the average wage of  
32 all employees at the location where the qualified investment  
33 is made, and any other information the director needs to  
34 perform the director's duties under this chapter.
- 35 (8) A requirement that the director is authorized to verify  
36 with the appropriate state agencies the amounts reported  
37 under subdivision (7), and that after doing so shall issue a  
38 certificate to the taxpayer stating that the amounts have been  
39 verified.
- 40 (9) A requirement that the taxpayer shall pay an average  
41 wage to all its employees other than highly compensated  
42 employees in each taxable year that a tax credit is available  
43 that equals at least one hundred fifty percent (150%) of the  
44 hourly minimum wage under IC 22-2-2-4 or its equivalent.
- 45 (10) A requirement that the taxpayer will keep the qualified  
46 investment property that is the basis for the tax credit in  
47 Indiana for at least the lesser of its useful life for federal

1 income tax purposes or ten (10) years.

2 (11) A requirement that the taxpayer will maintain at the  
3 location where the qualified investment is made during the  
4 term of the tax credit a total payroll that is at least equal to  
5 the payroll level that existed before the qualified investment  
6 was made.

7 (12) A requirement that the taxpayer shall provide written  
8 notification to the director and the corporation not more than  
9 thirty (30) days after the taxpayer makes or receives a  
10 proposal that would transfer the taxpayer's state tax liability  
11 obligations to a successor taxpayer.

12 (13) Any other performance conditions that the corporation  
13 determines are appropriate.

14 Sec. 19. A taxpayer claiming a credit under this chapter shall  
15 submit to the department of state revenue a copy of the director's  
16 certificate of verification under this chapter for the taxable year.  
17 However, failure to submit a copy of the certificate does not  
18 invalidate a claim for a credit.

19 Sec. 20. If the director determines that a taxpayer who has  
20 received a credit under this chapter is not complying with the  
21 requirements of the tax credit agreement or all the provisions of  
22 this chapter, the director shall, after giving the taxpayer an  
23 opportunity to explain the noncompliance, notify the Indiana  
24 economic development corporation and the department of state  
25 revenue of the noncompliance and request an assessment. The  
26 department of state revenue, with the assistance of the director,  
27 shall state the amount of the assessment, which may not exceed the  
28 sum of any previously allowed credits under this chapter. After  
29 receiving the notice, the department of state revenue shall make an  
30 assessment against the taxpayer under IC 6-8.1.

31 Sec. 21. On or before March 31 each year, the director shall  
32 submit a report to the corporation on the tax credit program under  
33 this chapter. The report must include information on the number  
34 of agreements that were entered into under this chapter during the  
35 preceding calendar year, a description of the project that is the  
36 subject of each agreement, an update on the status of projects  
37 under agreements entered into before the preceding calendar year,  
38 and the sum of the credits awarded under this chapter. A copy of  
39 the report shall be transmitted in an electronic format under  
40 IC 5-14-6 to the executive director of the legislative services agency  
41 for distribution to the members of the general assembly.

42 Sec. 22. On a biennial basis, the corporation shall provide for an  
43 evaluation of the tax credit program. The evaluation must include  
44 an assessment of the effectiveness of the program in creating new  
45 jobs and increasing wages in Indiana and of the revenue impact of  
46 the program and may include a review of the practices and  
47 experiences of other states with similar programs. The director

1 shall submit a report on the evaluation to the governor, the  
 2 president pro tempore of the senate, and the speaker of the house  
 3 of representatives after June 30 and before November 1 in each  
 4 odd-numbered year. The report provided to the president pro  
 5 tempore of the senate and the speaker of the house of  
 6 representatives must be in an electronic format under IC 5-14-6.

7 Sec. 23. (a) This chapter applies to taxable years beginning after  
 8 December 31, 2006.

9 (b) Notwithstanding the other provisions of this chapter, the  
 10 corporation may not approve a credit for a qualified investment  
 11 made after December 31, 2012. However, this section may not be  
 12 construed to prevent a taxpayer from carrying an unused tax  
 13 credit attributable to a qualified investment made before January  
 14 1, 2012, forward to a taxable year beginning after December 31,  
 15 2011, in the manner provided by section 13 of this chapter."

16 Page 11, after line 12, begin a new paragraph and insert:

17 "SECTION 8. An emergency is declared for this act."

18 Renumber all SECTIONS consecutively.

(Reference is to HB 1664 as printed February 16, 2007.)

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Representative Kuzman